

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF GEORGIA
3 VALDOSTA DIVISION
4 CASE NO. 7:07-CR-00036

5 UNITED STATES OF AMERICA

6 Plaintiff,

7 Vs.

8 JUAN GABRIEL MALDONADO aka

9 JUAN GABRIAL MALDONADO

10 Defendant.

11

12

13 DETENTION HEARING
14 BEFORE THE HONORABLE RICHARD L. HODGE
15 UNITED STATES DISTRICT COURT MAGISTRATE

16

17

18 DATE: OCTOBER 15, 2007

19 LOCATION: ALBANY, GEORGIA

20 COURT REPORTER: TAPE RECORDED

21

22 APPEARANCES:

23 FOR THE PLAINTIFF: LEAH E. MCEWEN

24 FOR THE DEFENDANT: RICKY D. COLLUM

25 ALSO PRESENT:

INTERPRETER: MARCELLA MOODY

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I N D E X

WITNESSES

For Government:	page
Richard E. Bell, Jr.	
Direct Examination by Ms. McEwen	4:6
Cross-Examination by Mr. Collum	10:20
For Defendant:	page
Maria Nunez	
Direct Examination by Mr. Collum	23:11
Cross-Examination by Ms. McEwen	26:13

1 THE COURT: Good morning.

2 COUNSEL COLLECTIVELY: Good morning, Your
3 Honor.

4 THE COURT: Today's date, I believe, is Monday,
5 the 15th of October 2007. It's a few minutes after 9:30
6 in the morning. We have a preliminary hearing and
7 detention hearing scheduled in case number 1:07-mj-39,
8 which is styled United States of America versus Juan
9 Gabriel Maldonado. The government will be represented by
10 Ms. McEwen and the defendant is represented by Mr.
11 Collum.

12 Ms. McEwen, is the government ready to proceed?

13 MS. MCEWEN: Yes, Your Honor.

14 THE COURT: Mr. Collum, are you ready to
15 proceed?

16 MR. COLLUM: Yes, Your Honor.

17 THE COURT: Okay. Mr. Maldonado, can you
18 understand what's going on through the interpreter?

19 (Transcriber's note: All of the defendant's answers
20 are given through the interpreter unless otherwise noted)

21 DEFENDANT MALDONADO: Yes, Your Honor.

22 THE COURT: Okay. If at any time you do not
23 understand what's being said or what's happening, will
24 you let your attorney know?

25 DEFENDANT MALDONADO: Yes.

1 THE COURT: Thank you.

2 All right. Ms. McEwen, you may proceed.

3 MS. MCEWEN: The government will call Agent
4 Bell.

5 RICHARD E. BELL, JR., GOVERNMENT'S WITNESS, SWORN

6 DIRECT EXAMINATION

7 BY MS. MCEWEN:

8 Q Will you state your name and employment for the
9 record, please, sir?

10 A Richard E. Bell, Jr., FBI.

11 Q How long have you been an agent with the FBI?

12 A Approximately 11 years.

13 Q Where is your current assignment?

14 A Valdosta, Georgia.

15 Q And during the time that you've been assigned to
16 Valdosta, Georgia, have you become familiar with the
17 defendant Juan Gabriel Maldonado?

18 A Yes.

19 Q And how did you first become familiar with him?

20 A Through the Colquitt County Drug Task Force.

21 Q Did they basically ask you to conduct an
22 investigation into the activities of Mr. Maldonado?

23 A Yes.

24 Q And in doing so, have you been able to make buys
25 using a confidential informant or source from Mr.

1 Maldonado?

2 A Yes.

3 Q And what is it that you have been able to purchase
4 through this source?

5 A Cocaine.

6 Q Powder cocaine or crack cocaine?

7 A Powder cocaine.

8 Q When did the first undercover buy take place?

9 A I believe it was February 21, 2007.

10 Q And did it take place within the Middle District of
11 Georgia?

12 A Yes.

13 Q Describe for the Court the amount of cocaine that
14 was purchased on that occasion.

15 A Approximately one kilogram.

16 Q And has that been tested by a laboratory and
17 determined to be cocaine?

18 A Yes. It was recently tested by the Drug Enforcement
19 Administration, Miami, Florida. It was determined to be
20 80 percent pure.

21 Q And on that occasion, describe generally what took
22 place with the source and Mr. Maldonado.

23 A The source received a call some time early that --
24 earlier that morning. The source was solicited to
25 purchase a kilogram of cocaine for \$20,000. The call was

1 overheard by myself and another investigator. It was
2 also recorded. A time -- an approximate time was set up
3 later that afternoon for the source to meet with
4 Maldonado.

5 Later that afternoon, the source contacted,
6 telephonically, Maldonado. An approximate place on
7 Crosby Road was determined as a meeting place. The
8 source was once again provided with a recording device.
9 That telephone call was recorded. Another recording
10 device was sent with the source, and the transaction was
11 recorded.

12 Q Following that transaction, did the source later
13 learn that Mr. Maldonado was expecting a shipment of
14 cocaine?

15 A Yes.

16 Q About when did that take place?

17 A June 2007.

18 Q And after the source relayed that information to
19 you, what did you do?

20 A We advised the source to let us know when the
21 shipment arrived, which he did, which was later that
22 night. Task Force Officer Steve Exum obtained a search
23 warrant for Maldonado's residence. The cocaine was
24 actually taken to Maldonado's brother-in-law's residence
25 which was direct -- almost directly across the street

1 from Maldonado's residence, and it was placed in the
2 chicken pen behind that residence. So we got a search
3 warrant for his brother-in-law's residence.

4 Q And upon executing a search warrant for the
5 brother-in-law's residence across the street from Mr.
6 Maldonado's residence, how much cocaine did you locate in
7 the chicken pen?

8 A Approximately six kilograms.

9 Q Did you later learn that there was additional
10 cocaine that had come in in the shipment?

11 A Yes, we did.

12 Q How much more?

13 A Two other kilograms, which we obtained in a traffic
14 stop.

15 Q And has that cocaine been tested as well?

16 A Yes, it has.

17 Q Did you have an occasion to interview Mr. Maldonado
18 following his arrest in June?

19 A Yes, later that evening.

20 Q Did you explain his Miranda rights to him?

21 A I did. They were read to him, and they were
22 translated to him in Spanish.

23 Q And did he agree to speak with you after learning of
24 his rights?

25 A Yes.

1 Q What did he state to you in that interview?

2 A He admitted that he had arranged for the shipment of
3 cocaine from Atlanta. He stated that his role in the
4 shipment was to sell the cocaine while the two
5 individuals were there staying with him in his residence
6 from Atlanta.

7 Q Since the time of his arrest and incarceration at
8 the Colquitt County Jail, have you and other agents
9 reviewed certain recorded telephone conversations in
10 which Mr. Maldonado has engaged?

11 A Yes.

12 Q And from those conversations, have you learned of
13 any ongoing narcotics activity involving Mr. Maldonado?

14 A No.

15 Q Have you learned of any plans to leave the
16 jurisdiction if released on bond?

17 A Yes. He stated that upon his release, which it was
18 my perception from the way he was talking on the
19 telephone recording that he felt that he was going to be
20 released fairly soon, meaning some time last week from --
21 at a bond hearing, but he stated on the -- on the
22 telephone that as soon as he got out, that he was
23 returning to Mexico.

24 Q In addition to those ties to Mexico, have you
25 learned of any ties to any other countries that Mr.

1 Maldonado has?

2 A Yes, Peru.

3 Q Describe the ties that he has to Peru.

4 A There's a female there, and it's my perception, once
5 again from the telephone call, that the lady from Peru
6 recently had a child, and (unintelligible) has something
7 to do with Maldonado.

8 Q Do you believe he's the father of that child?

9 A (No audible response)

10 Q In the course of your investigation, have you
11 learned of Mr. Maldonado making trips to Mexico?

12 A No.

13 Q Have you learned of him making trips to the
14 Brownsville, Texas, border area?

15 A Yes.

16 Q Describe those trips.

17 A I learned from a reliable source that Maldonado had
18 been to Brownsville, Texas, and at that time we believe
19 it was an effort to traffic weapons.

20 Q Speaking of weapons, are you familiar with a brother
21 of Mr. Maldonado, Birginio Maldonado?

22 A Yes.

23 Q Have you reviewed a My Space web page which
24 contained a large number of weapons put up by Mr.
25 Birginio Maldonado?

1 A Yes, weapons and cash.

2 Q Describe the weapons that were present on that web
3 page.

4 A One appeared to be an AK-47. One was a six-shooter
5 tucked in his belt. There were numerous -- numerous
6 other weapons and some other photos, but they were spread
7 out on a bed or a gun case. They were laid out in a
8 display fashion.

9 Q Have you spoken to Mr. Birginio Maldonado about
10 those weapons?

11 A Yes.

12 Q And who did he state was the owner of those weapons?

13 A I don't recall, but he did say that he was not in
14 possession of the weapons anymore at this time.

15 MS. MCEWEN: I don't have anything further of
16 this witness, Your Honor.

17 THE COURT: Okay. Mr. Collum?

18 MR. COLLUM: Thank you, Your Honor.

19 **CROSS EXAMINATION**

20 **BY MR. COLLUM:**

21 Q Agent Bell, good morning.

22 A Morning.

23 Q You testified earlier that on February 21, 2007,
24 your confidential source met with Juan Maldonado?

25 A After the telephone call, yes, sir.

1 Q All right. Now, before -- before that telephone
2 call, what did you do to corroborate your confidential
3 source's information?

4 A I listened to the telephone call. He was standing
5 right there.

6 Q No, I'm talking about before the telephone call.
7 Did you do anything before that? Your confidential
8 source came to you, correct?

9 A Correct.

10 Q And that confidential source told you what about Mr.
11 Maldonado?

12 A That he was trafficking large amounts of cocaine.

13 Q Okay. And did you do anything before that telephone
14 call to corroborate the confidential source's
15 information?

16 A Yes. We also had other sources, not just this one.
17 It was corroborated through other sources.

18 Q So how many sources told you something about Mr.
19 Maldonado before the telephone call?

20 A Two.

21 Q Two. Okay. And did you corroborate anything about
22 each one of those sources' information other than just
23 the two sources telling you the same story?

24 A The other source had actually purchased from
25 Maldonado in the past.

1 Q And did you witness that transaction?

2 A It was Colquitt County Drug Task Force case at the
3 time.

4 Q And did anyone at the Colquitt County Drug Task
5 Force witness that prior drug transaction?

6 A I can't testify to that. I wasn't there.

7 Q And have you heard anything about that, about anyone
8 from the Colquitt County Drug Task Force witnessing that
9 prior drug transaction?

10 A I'm sure that someone did, but no one has actually
11 come to me and said anything.

12 Q Okay. So at that point in time before the phone
13 conversation, you had not corroborated any information
14 that those two sources had provided to you?

15 A No. We had -- we had several other telephone calls
16 that had been recorded in addition to surveillance. No,
17 it was just not that one telephone call. We had numerous
18 other telephone calls --

19 Q Okay.

20 A -- that corroborated information up to that point.

21 Q Okay. Tell me about those prior telephone calls.
22 What were they?

23 A They pretty much talked about the same -- the same
24 thing, drug transactions, when it was coming in.

25 Q And who are the people on those phone calls?

1 A Maldonado and my source.

2 Q How did you identify Mr. Maldonado on those

3 telephone calls?

4 A Well, the telephones for one, hand registers for

5 two, and I knew his voice. I'm very familiar with it.

6 Q Okay. Now, were there -- were the conversations in

7 Spanish?

8 A Yes.

9 Q Okay.

10 A Most of the time. Some broken English, but yes.

11 Q Are you fluent in Spanish?

12 A Me? No, sir.

13 Q Are you able to discern people's dialects in

14 Spanish?

15 A All of the telephone -- all of the recorded

16 telephone calls are sent to our specialist in Atlanta,

17 and they were transcribed and sent back to us in English.

18 Q Okay. But you, personally, you overheard these

19 telephone conversations, correct?

20 A Correct.

21 Q And they were in Spanish, correct?

22 A Correct.

23 Q Are you able to discern different dialects of the

24 Spanish-speaking people?

25 A That's why it was sent to our specialist in Atlanta,

1 who sent it back to us in English.

2 Q Had that specialist in Atlanta heard Mr. Maldonado's
3 voice in person?

4 A Heard it from the tape, from the recording.

5 Q Okay. So the only information that that specialist
6 in Atlanta had was a tape, correct?

7 A A recording.

8 Q A recording. And you had told that specialist in
9 advance that the person on the phone was Juan Maldonado?

10 A In addition to the telephone recordings, we also had
11 face-to-face meets where we were actually able to
12 visually see Maldonado talking to the source, so it was
13 obvious that was Maldonado talking.

14 Q So you were -- you personally observed the
15 confidential source and Maldonado speaking and also
16 simultaneously taping that conversation?

17 A We were able to sit there and look at them talking,
18 yes.

19 Q But -- and the conversation that you witnessed was
20 being taped?

21 A Yes. And we could hear it in our vehicle.

22 Q That's what I needed to know. All right. Thank
23 you.

24 So you knew, you had positive identification on the
25 individuals who were being recorded?

1 A Yes, sir.

2 Q Okay. That's what I needed to know.

3 A Sorry.

4 Q Now, the cocaine that was mentioned on direct, there
5 was -- it was found at Juan Maldonado's brother-in-law's
6 house?

7 A Correct.

8 Q So there was no cocaine found on his property
9 whatsoever?

10 A No.

11 Q And there was no cocaine found on him?

12 A No.

13 Q There was no drug residue found on my client?

14 A No.

15 Q There was no drug paraphernalia found on my client?

16 A No.

17 Q There was no drug paraphernalia found on his
18 property?

19 A I think there was.

20 Q What was it?

21 A I can't testify to that because I'd have to see the
22 property receipt.

23 Q So you don't -- so here today you have no
24 information that you can testify to that there was drug
25 paraphernalia found on his property?

1 A The search warrant wasn't for his property.

2 Q Okay. So the question is though, you cannot testify
3 here today that you saw any drug -- that any drug
4 paraphernalia was found on Juan Maldonado's property?

5 A No. My source was with him when the shipment come
6 in. They were taking it to his residence. At the last
7 minute, Maldonado decided to take it to his
8 brother-in-law's residence.

9 Q Okay. But, yes or no, there were no -- there was no
10 drug paraphernalia found on my client's property to your
11 knowledge?

12 A I didn't. (Unintelligible)

13 Q (Unintelligible) All right. You were asked on
14 direct examination about telephone calls that you
15 overheard, that you listened to from the Colquitt County
16 Jail, correct?

17 A Yes.

18 Q And I believe one of the questions was asked about
19 whether Mr. Maldonado would leave the country.

20 A Yes.

21 Q Now, could you tell me again, one more time, what it
22 was that you heard on those tapes?

23 A I don't recall who he was talking to, but he said
24 that when he got out that he was going back to Mexico.

25 Q Now, in the context of getting out, that could have

1 been when all of this was resolved and he was found
2 innocent, correct? When all of this was done?

3 A That would be speculation on my part.

4 Q So you don't know?

5 A Judging from the telephone conversation that I was
6 listening to or reading from the translation, it was my
7 perception that he believed he was going to bond out last
8 week, and as soon as he got out, he was going back to
9 Mexico.

10 Q But you don't know for a fact that he was going to
11 go back to Mexico after he bonded out?

12 A I do not know for a fact.

13 Q Okay. Now, also, were those taped conversations in
14 Spanish as well?

15 A Yes.

16 Q Who translated those conversations for you?

17 A We have a unit in Atlanta that does that.

18 Q And how did you know that that was Juan Maldonado on
19 the phone making those conversations?

20 A When they do the tape recordings at the Jail,
21 they're identified. I can't testify much more to that
22 because I don't work at the jail, but they're identified
23 I believe by name, calling card number, some identifier,
24 and that's the way the tape is marked.

25 Q Okay. But you don't know -- do you know that for a

1 fact that's how it's done?

2 A No. That's what I was told, but I don't know it to
3 be a fact.

4 Q So you really don't know how that individual is
5 identified as Juan Maldonado, do you?

6 A That's what I was told, it was by an inmate number
7 or some identifying means.

8 Q And you don't know whether it was possible that some
9 other inmate could have used his identifier?

10 A That's always possible.

11 Q So you don't -- and you did not witness him making
12 those con -- those phone calls, did you?

13 A No.

14 Q So you don't know for a fact to testify here today
15 that that was Juan Maldonado making that telephone call?

16 A Not for a fact.

17 Q Okay. All right. Now, also there was some
18 conversation on direct about weapons on a My Space page.
19 Who was that individual holding the weapons?

20 A Birginio Maldonado.

21 Q And who is that?

22 A It's his brother.

23 Q But as far as you know, my client wasn't on any web
24 space page showing off any weapons, was he?

25 A Not to my knowledge.

1 Q And did you do an investigation at all on how Juan
2 Maldonado works as far as a day job or anything like
3 that?

4 A As far as I can determine, he hasn't worked in quite
5 some time.

6 Q You didn't go talk to any of the farmers that he
7 works for?

8 A No. That would be (unintelligible) my
9 investigation. I couldn't do that, but I've talked to
10 other sources and other investigators, and through
11 surveillance, we haven't seen him work in quite some
12 time.

13 Q And when you say "we", you're -- you're talking
14 about who?

15 A My task force, the Southwest Georgia Gang Task
16 Force.

17 Q Okay. And is one of those individuals Mr. Steve
18 Exum?

19 A Yes.

20 Q Okay. And did he -- Well, I don't want to ask you
21 what he did. I can talk to him about that later.

22 Now, I've got a question for you, Mr. Bell, about
23 this June 18th interview that you did with Mr. Maldonado.
24 I was looking at your affidavit, and you state in here
25 that Maldonado admitted that he had arranged for Adrian

1 Perez Negron and Joaquin Robles --
2 How do you say that?
3 A It's close.
4 Q Close.
5 -- to drive from Atlanta, Georgia, and deliver the
6 cocaine?
7 A Yes.
8 Q Okay. Tell us about that interview. Who was there?
9 Who was present?
10 A Myself and an interpreter.
11 Q And Mr. Maldonado?
12 A Right.
13 Q Just the three of you?
14 A Yes.
15 Q Where is that interpreter now?
16 A Colquitt County, I assume.
17 Q What's that person's name?
18 A I don't recall right now.
19 Q You can't remember the name of the interpreter?
20 A No, sir.
21 Q And you don't speak Spanish, correct?
22 A No.
23 Q And that court reporter -- I mean -- excuse me --
24 that interpreter is not a federal court-appointed
25 interpreter?

1 A I don't know.

2 Q And the person who's not hired by the FBI, are they?

3 A No.

4 Q Who employs that interpreter?

5 A To my knowledge, Colquitt County Sheriff's Office.

6 Q That interpreter isn't here today?

7 A No.

8 Q So you don't know for a fact whether the information

9 that interpreter gave you was correct or not, do you?

10 A I believe it is.

11 Q You believe it is, but you don't speak Spanish, do

12 you?

13 A No.

14 Q So you don't really know whether what that

15 interpreter told you was what Mr. Maldonado said?

16 A I believe it is.

17 Q But what I'm saying is you don't know that what that

18 interpreter told you is what Mr. Maldonado said?

19 A Technically, no.

20 MR. COLLUM: No further questions, Your Honor.

21 MS. MCEWEN: No redirect, Your Honor.

22 THE COURT: You can step down. Thank you.

23 MS. MCEWEN: The government rests, Your Honor.

24 THE COURT: Mr. Collum, the government has

25 rested.

1 MR. COLLUM: Your Honor, do you want us to put
2 up a witness as to the detention hearing? We have no
3 witnesses as far as the preliminary examination is
4 concerned. Would you like for us to conclude with that
5 before we go into the detention hearing?

6 THE COURT: Well, I guess however you want to
7 do it. It doesn't matter to me. I can tell you that I
8 believe the interpreter. I find there's adequate
9 probable cause which does give rise to the presumption.
10 Now, if you have witnesses that you want me to hear with
11 regard to release or detention, certainly I'm going to
12 allow you to put up your witnesses.

13 MR. COLLUM: We have one, Your Honor.

14 THE COURT: Certainly.

15 MR. COLLUM: Ms. Maria Nunez.

16 Your Honor, she does not speak English. I've spoken
17 with Marcella, and she would be willing to interpret for
18 her.

19 THE COURT: She's going to have to interpret
20 for me and then run tell him?

21 MR. COLLUM: Well --

22 THE COURT: How are we going to do this?

23 MR. COLLUM: -- I have another -- I have
24 another individual, Your Honor, who can interpret for
25 (unintelligible).

1 THE COURT: Can you use a microphone somewhere
2 and interpret the responses? I'm assuming that Mr.
3 Maldonado will be able to understand this witness'
4 responses.

5 You can go ahead and swear her, please.

6 (Witness sworn)

7 (Discussion about microphones)

8 THE COURT: We'll try it this way and see if
9 it'll work. If not, we'll figure out what Plan B is.

10 **MARIA NUNEZ, DEFENDANT'S WITNESS, SWORN**

11 **DIRECT EXAMINATION**

12 **BY MR. COLLUM:**

13 Q Ms. Nunez?

14 A Si.

15 Q Please state your name for the record.

16 A Maria --

17 THE COURT: Whoa. Whoa. Whoa. You need to
18 translate it into English so I can understand --

19 INTERPRETER: Okay.

20 THE COURT: -- what she's saying.

21 I assume -- Ask Mr. Maldonado if he can understand
22 her without an interpreter.

23 INTERPRETER: Okay.

24 THE COURT: Tell him, please, if he doesn't
25 understand to let his lawyer know.

1 Okay. Now, you've got to translate for myself and
2 Ms. McEwen.

3 INTERPRETER: Okay.

4 THE COURT: And Mr. Collum, I suppose.

5 Okay. So now we'll start over.

6 MR. COLLUM: Thank you, Your Honor.

7 (All of the answers are given through the
8 interpreter unless otherwise noted)

9 BY MR. COLLUM, CONTINUED:

10 Q Ms. Nunez, please state your name for the record.

11 A Maria Nunez.

12 INTERPRETER: Her name is Maria Nunez.

13 Q Ms. Nunez, how do you know Juan Maldonado?

14 A He's a good son.

15 THE COURT: He's what?

16 INTERPRETER: A good son.

17 Q If Mr. Juan Maldonado is released on bond, will he
18 be able to stay with you?

19 A She said she will accept him staying with him [sic].

20 He's always stayed with him all his life, so she has no
21 problem with that.

22 Q Would you be willing to have --

23 INTERPRETER: Say that again.

24 Q Would you be willing to have him wear an ankle
25 monitor?

1 A She said -- he said -- she said that she doesn't
2 know much about that, but she will accept whatever it is,
3 and she's home all the time. She stays home, and she
4 stays home with her grandkids.

5 Q Now, since you stay home all the time --

6 A She does not work.

7 Q -- you would be able to watch Juan Maldonado?

8 A She said she -- she said she accepts anything and
9 her son is good.

10 Q So you would be able to keep an eye on him?

11 A She said yes.

12 Q Also, Ms. Nunez, would you be willing to put up any
13 property to secure a bond for your son?

14 A She said she doesn't know how much they will want
15 for -- as far as land.

16 Because she's also paying for her land, but also the
17 children -- her children can also help pay for any.

18 Q Also how long have you lived in the United States?

19 A She has been here for 21 years.

20 Q How long has Juan Maldonado lived in the United
21 States?

22 A She brought him here when he was 13.

23 Q Has he ever --

24 THE COURT: How old is he now?

25 THE WITNESS: 34. He's 34 years old.

1 Q Has Juan Maldonado lived anywhere else in the last
2 21 years other than Moultrie, Georgia?

3 A She said she brought him here when he was little,
4 here to Georgia.

5 Q Ms. Maldonado, what does your son do for a living?
6 How does he make his living working?

7 A He works in the fields.

8 Q And how long has he done that?

9 A He started working when -- around when he was 17 or
10 18 years old.

11 MR. COLLUM: No further questions, Your Honor.

12 **CROSS EXAMINATION**

13 **BY MS. MCEWEN:**

14 Q Ms. Nunez, are you a citizen of the United States?

15 A She said permanent resident.

16 Q Is your son also a permanent resident?

17 A Yes.

18 Q Prior to his being arrested several months ago, how
19 much contact did you have with your son?

20 A Every day.

21 Q Where was he living?

22 A Okay. When he -- he has his own house, but he
23 divorce about three years ago, and he would come and go
24 to the house, to his -- her house, and he would go to the
25 house back and forth.

1 Q Where is his house located?

2 A Close to hers. Less than a mile.

3 Q Where does he work? When you say "in the fields",
4 where are those fields?

5 A The count -- the fields are a little far, but they
6 are in the fields, and she knows that he works in the
7 fields.

8 Q When you say "a little far", how long is he gone on
9 a daily basis?

10 A Okay. When he goes he oftentimes comes to her house
11 to have lunch and then he goes back to work. Sometimes
12 he'll take a lunch and he won't come that day to eat
13 lunch with her.

14 Q What time does he leave in the morning?

15 A Sometimes at 8 and sometimes at 7.

16 Q What does he return home in the evening?

17 A He said depends, sometimes they can get off early,
18 sometimes it's later in the afternoon.

19 Q Just an estimate of the time, please.

20 A She said that they really don't have a time.
21 Sometimes they might work five to six hours in a day and
22 sometimes he might work ten hours that day.

23 Q How much does your son make working in the fields?

24 A He's a contractor. He actually hires the people to
25 take out to the field.

1 Q How much does he make?

2 A He say sometimes it is not something that is --
3 because it's by contract, sometimes it's good money, and
4 sometimes it's not so good. He say it just depends on
5 the hours that he works.

6 Q What is good money?

7 A Sometimes 3500, sometimes a 1000, sometimes less.

8 Q Per week, per month?

9 A By week.

10 Q Does he share this money for the income of your
11 household?

12 A He said he gives her money because he cohabitates
13 with them.

14 Q How much?

15 A He says well, it depends. If he makes good money,
16 he gives them some. If he doesn't make a lot, then, you
17 know, she gives him a little bit. It just depends.

18 Q Ms. Nunez, do you get money from your other
19 children?

20 A She said that other children don't really help her
21 out that much. Usually sometimes only like during
22 Mother's Day or something like that because they're the
23 ones don't really have good jobs.

24 Q How much is your household bills or budget for a
25 month?

1 A She said she -- she's paying for her house so she
2 pays \$530 a month in her house, for the note of her
3 house.

4 Q What about other bills?

5 A And the phone, insurance. She says payments that
6 she has.

7 Q Where do you get your other money?

8 A Her husband works also. His father.

9 Q What does he do?

10 A He also -- they also contract work like her son.

11 Q How much does he make?

12 A Since it's seasonal work, it depends on the season.
13 Some seasons are good and some seasons is not as good.

14 Q Where are the fields where her husband works?

15 A She said that -- he says that he -- it's a little
16 far from his house, but his husband usually wakes up
17 around 6:00 and to go wake up all the people that they
18 are going to pick up for the field.

19 Q Have you ever been to visit either your husband or
20 your son in any of the fields where they work?

21 A She said she does go sometimes. Sometimes, because
22 she does take care of five grandchildren.

23 Q Where were the fields when you went to visit them?

24 A The work in the Garcia's field. She says she's not
25 sure exactly where is -- exactly their location, but --

1 she said they sent him to this area, and then they send
2 them to this area.

3 Q All within Colquitt County or --

4 A She said only in Moultrie.

5 Q Have there been days where your son did not come to
6 visit you?

7 A He's in the house every day. Yeah.

8 INTERPRETER: Can I re --

9 MS. MCEWEN: Sure.

10 A She says she feeds him every day. So he's in her
11 house every day.

12 Q Has he been to visit his children in Texas?

13 A She said that she's aware she has not gone to see
14 his kids in Texas.

15 Q Does he send money to his children in Texas?

16 A He said when he's, you know, working and making
17 money, he does send his children money.

18 Q Have you ever seen her son in possession of any
19 weapons, guns?

20 A He says sometimes, but he doesn't do anything bad
21 with these weapons. He stay in the house, but he doesn't
22 do any bad things with them.

23 Q How many guns?

24 A Right now he doesn't have any because they don't
25 have any in the house. And then she said really

1 (unintelligible)

2 She doesn't remember what she was going to say.

3 Q When was the last time you saw him with a gun?

4 A She said it's been a while. He said he doesn't do
5 any bad things with it, but it's been a while.

6 Q What happened to the guns?

7 A The government took them.

8 Q Where did he get them from?

9 A They bought -- they buy them. And she doesn't know
10 where, but like gun stores or something like that.

11 Q Before the government took the guns, how many were
12 there?

13 A She said she's not -- she doesn't know. He does not
14 own them.

15 Q How many other children does she have?

16 A She said there's ten children, boys and girls.

17 Q Do they all live in Moultrie?

18 A They all live in Moultrie.

19 Q Who is Geronimo Garcia?

20 A He is a brother-in-law.

21 Q Why would he have several kilograms of cocaine in a
22 chicken pen behind his house?

23 MR. COLLUM: Your Honor, she can't test --

24 Objection. She can't testify to that. The cross

25 examination is going outside the scope of the detention

1 hearing, and also she cannot testify, Your Honor, to what
2 someone else -- why he has whatever he has in his
3 possession.

4 MS. MCEWEN: We don't know, Your Honor. She
5 may have knowledge of Mr. Garcia's selling narcotics and
6 why he would have that behind his house.

7 MR. COLLUM: She does not have personal
8 knowledge of why he --

9 THE COURT: You don't know that. Let her
10 answer it. I mean she may say has no knowledge, but you
11 can't really speculate as to what she knows, Mr. Collum.
12 She may have a completely probable explanation for the
13 question.

14 BY MS. MCEWEN, CONTINUED:

15 Q Why does he have several kilograms of cocaine in a
16 chicken pen?

17 A Senora, he said who?

18 Q Geronimo Garcia.

19 A She didn't know that.

20 THE COURT: Okay. So she doesn't know, so we
21 need -- we can abandon that.

22 MS. MCEWEN: Yes, Your Honor. I have nothing
23 further.

24 THE COURT: Mr. Collum, any redirect?

25 MR. COLLUM: No, Your Honor.

1 THE COURT: Okay. Ma'am, you can tell her --
2 She's figured it out.

3 Other evidence for the defendant, Mr. Collum?

4 MR. COLLUM: No, Your Honor.

5 THE COURT: Anything in rebuttal?

6 MS. MCEWEN: No, Your Honor.

7 THE COURT: Okay. Argument?

8 MS. MCEWEN: Just briefly, Your Honor.

9 The agent has testified that he has overheard --

10 THE COURT: Pardon me. Mr. Collum, I assume
11 you're waiving opening and reserving concluding?

12 MR. COLLUM: Yes, Your Honor.

13 THE COURT: Okay. I'm sorry. Go ahead, Ms.
14 McEwen.

15 MS. MCEWEN: The agent has testified that he
16 has overheard Mr. Maldonado in phone conversations from
17 the jail say that when he's released, that he would
18 return to Mexico. Additionally he has overheard
19 conversations which lead him to believe that Mr.
20 Maldonado has been engaged in a romantic relationship
21 with an individual in Peru. And I would state that these
22 things, along with the fact that he's not a citizen but
23 merely a permanent resident of this country, would lead
24 the Court to believe that he is a flight risk.

25 And with those indicia of flight along with Mr.

1 Maldonado's history of trafficking cocaine in this
2 particular case having gone on for several months, I
3 would suggest that the presumption has not been rebutted
4 here today, and ask the Court to detain him.

5 THE COURT: Mr. Collum.

6 MR. COLLUM: Yes, Your Honor.

7 Mister -- Agent Bell did overhear some conversation,
8 but it was in Spanish, and he's admitted under oath that
9 he doesn't understand Spanish, and he had to have it sent
10 to Atlanta to be transcribed. He admitted under oath,
11 Your Honor, that he does not know for a fact that Mr.
12 Maldonado was the individual making that phone call. We
13 have no info -- we have no one from the Colquitt County
14 Jail telling us how those phone calls are monitored.

15 So, Your Honor, we really don't know for a fact here
16 today that Mr. Maldonado made any of those phone calls or
17 said that he was going to go back to Mexico. And if he
18 did make those phone calls, we don't know whether he
19 meant after the case was over and he was free and clear
20 of the allegations made.

21 Your Honor, also Mr. Maldonado has lived in
22 Moultrie, Georgia, for at least the last 21 years.
23 There's been testimony that he works for the local
24 farmers. He has constant contact with his parents every
25 day. His mother has testified that she's at home. She

1 can watch Mr. Maldonado if he's released and lives with
2 her, constant supervision. And also she is not opposed
3 to him wearing an ankle monitor if that's what it takes.

4 And also whatever property needs to be left with the
5 Court in order to secure bond, her family will be able to
6 come up with that.

7 Your Honor, there are circumstances by which this
8 Court can issue a bond in this case. Now if that bond be
9 at a certain level, \$50,000; \$40,000; whatever it may be,
10 that's upon the defendant to come up with the ten percent
11 or whatever the Court deems necessary.

12 But, Your Honor, there is evidence in the record
13 that there are conditions upon which this Court can set
14 and Mr. Maldonado can be released on bond.

15 And, Your Honor, as far as all of these
16 conversations that have been taped, this interview in the
17 Colquitt County Jail, we have yet to hear from the
18 individuals who actually interpreted those conversations.
19 And, Your Honor, it could very well be that somewhere
20 something was lost in translation to where what was
21 actually written down or perceived to be one thing was
22 not what was stated. The Court needs to hear from those
23 translators, the individuals who actually heard the
24 information.

25 Nothing further, Your Honor.

1 THE COURT: Okay. Y'all give me a couple -- a
2 few minutes, and let me look over everything, mull over
3 this, and I shall return, like General MacArthur.

4 (Recess)

5 THE COURT: I'll now announce my ruling in this
6 matter. I think I earlier established that or earlier
7 stated that probable cause in this case has been clearly
8 established, which does give rise to the rebuttable
9 presumption in favor of detention.

10 As far as the evidence is concerned, I find the
11 weight of evidence against this defendant to be quite
12 strong and it's uncontroverted.

13 And, Mr. Collum, some of the arguments you made are
14 well taken insofar as the guilt/innocence phase of these
15 proceedings are concerned. However, the -- as you know
16 and Ms. McEwen knows, the rules regarding admissibility
17 of evidence do not apply at a detention hearing. I can
18 consider just about anything.

19 There's no reason for me to assume that somebody
20 identified themselves -- somebody other than the
21 defendant identified themselves as Mr. Maldonado from the
22 Colquitt County Jail in some grand conspiracy to frame
23 him. Just as there's no reason for the purposes of the
24 detention hearing for me to assume that the interpreter
25 intentionally misstated something to the agent, again, as

1 part of a grand scheme to, you know, get your client.

2 Based on the evidence that I've seen here today, I
3 don't think there are conditions that I can impose to
4 keep him from being a danger to the community. Obviously
5 if the FBI was called in by the local authorities, I
6 think the kilogram that we -- that we've heard about
7 being sold in February wasn't the first one. I've heard
8 about a total of nine grams of -- nine kilograms of
9 cocaine, one sold to the confidential informant, six
10 taken from the chicken coop, and I'm almost positive I
11 heard the FBI say that the confidential source was with
12 your client when he took possession or delivery of the
13 six kilograms.

14 Am I right on that?

15 (No audible response)

16 THE COURT: Okay.

17 Which may explain how it got into the chicken coop.

18 And then I heard about two more grams -- two more
19 kilograms taken in some sort of a traffic stop. I don't
20 know that that's really been connected to Mr. Maldonado,
21 but seven is between 15 and 20 pounds of coke.

22 So I do find that his release would pose a danger to
23 the community.

24 Of course, he does have strong ties to those
25 Colquitt County community. His mother and family and

1 obviously some of his children live here. But when he
2 tells someone in a phone conversation, "When I get out,"
3 or when he gets released. I don't think he said, "When
4 this matter's over." Could have meant that, but "When I
5 get out, I'm going to Mexico. "

6 And then there's some testimony about some -- some
7 connection with a woman in Peru who recently gave birth
8 to a child I think, but I'm assuming the inference I'm
9 supposed to draw is that he is the father of that child.
10 I don't know.

11 Given the fact that he is not a United States
12 citizen and has made the statement that he is going to
13 Mexico, if I were to order his release, this is certainly
14 one that Ms. McEwen would love to appeal me on, but
15 that's not why I'm ordering the detention of the
16 defendant. I think that my job requires it, given the
17 evidence that I have heard.

18 And, of course, you're aware of your rights to
19 appeal my ruling today.

20 But I will be entering an order requiring the
21 continued detention of the defendant.

22 Now that that is done, while Mr. Maldonado is
23 present with counsel, do y'all wish to arraign him at
24 this time? We didn't --

25 He hasn't been indicted. We tried to do that the

1 other day, didn't we?

2 MR. COLLUM: Usually the government is really
3 quick on that.

4 THE COURT: Right.

5 MR. COLLUM: Your Honor, I do have a question
6 though. It's a bookkeeping matter actually.

7 I tried to file an entry of appearance on Pacer, and
8 because the case is sealed, it won't let me do it, and I
9 can't receive any notices from the Court until I file an
10 entry of appearance. So I'm kind of caught. How do
11 y'all want me to handle that?

12 THE COURT: That's like Catch-22.

13 MR. COLLUM: Yes, times two.

14 MS. MCEWEN: We'll bring up an order to
15 formally unseal it and file the redacted complaint as it
16 (unintelligible).

17 THE COURT: Okay. Now you've already provided
18 him with a redacted complaint, right? We looked at -- I
19 looked at it last week.

20 Okay. I think we probably do need to unseal it
21 since Mr. -- so Mr. Collum can represent him.

22 And you were retained in this matter; is that
23 correct, Mr. Collum?

24 MR. COLLUM: That's correct, Your Honor.

25 THE COURT: All right. I will be entering a

1 written order of detention later today, and I suppose
2 this will conclude Mr. Maldonado's business before the
3 Court.

4 (After a brief discussion regarding an unrelated
5 matter, the hearing continued as follows:)

6 THE COURT: Mr. Maldonado will remain in the
7 custody of the United States Marshals until further order
8 of the Court. I wish I could see it some other way, but,
9 under these circumstances, I just don't think I can.

10 That's the ruling of the Court.

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CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT IS A TRUE
AND CORRECT TRANSCRIPT OF THE TAPE RECORDED PROCEEDINGS.

/S_____

R. DARLENE PINO

UNITED STATES COURT REPORTER